

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 218 be amended to read as follows:

- 1 Page 2, after line 40, begin a new paragraph and insert:
- 2 "SECTION 3. IC 27-8-5.9 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2009]:
- 5 **Chapter 5.9. Payment to a Noncontracted Provider**
- 6 **Sec. 1. The definitions in IC 27-8-11-1 apply throughout this**
- 7 **chapter.**
- 8 **Sec. 2. As used in this chapter, "contracted provider" means a**
- 9 **provider that has entered into an agreement with an insured under**
- 10 **IC 27-8-11-3.**
- 11 **Sec. 3. As used in this chapter, "covered individual" means an**
- 12 **individual who is entitled to coverage under a policy.**
- 13 **Sec. 4. As used in this chapter, "emergency" means a medical**
- 14 **condition that arises suddenly and unexpectedly and manifests**
- 15 **itself by acute symptoms of such severity, including severe pain,**
- 16 **that the absence of immediate medical attention could reasonably**
- 17 **be expected by a prudent layperson who possesses an average**
- 18 **knowledge of health and medicine to:**
- 19 **(1) place an individual's health in serious jeopardy;**
- 20 **(2) result in serious impairment to the individual's bodily**
- 21 **functions; or**
- 22 **(3) result in serious dysfunction of a bodily organ or part of**
- 23 **the individual.**
- 24 **Sec. 5. As used in this chapter, "noncontracted provider" means**

1 a provider that has not entered into an agreement with an insurer  
2 under IC 27-8-11-3.

3 Sec. 6. If a policy provides coverage for a health care service  
4 that is rendered by a noncontracted provider:

5 (1) who renders the health care service on an emergency basis  
6 in a hospital or an ambulatory outpatient surgical center and  
7 submits a claim for the health care service on the appropriate  
8 insurer claim form; or

9 (2) who renders the health care service as:

10 (A) an anesthesiologist;

11 (B) a pathologist; or

12 (C) a radiologist;

13 in a hospital or an ambulatory outpatient surgical center that  
14 is a contracted provider;

15 the insurer shall make a benefit payment directly to the  
16 noncontracted provider for the health care service and send  
17 written notice of the payment to the covered individual or the  
18 authorized representative of the covered individual.

19 Sec. 7. If an insurer makes a payment to a covered individual  
20 for a health care service rendered by a noncontracted provider, the  
21 insurer shall include with the payment instrument written notice  
22 to the covered individual that includes the following:

23 (1) A statement of the claims covered by the payment  
24 instrument.

25 (2) The amount paid by the insurer for each claim.

26 (3) Any amount of a claim that is the covered individual's  
27 responsibility.

28 (4) A statement in at least 14 point type that:

29 (A) instructs the covered individual to forward the  
30 payment to the noncontracted provider if the covered  
31 individual has not paid the noncontracted provider in full;

32 (B) specifies that paying the noncontracted provider is the  
33 covered individual's responsibility; and

34 (C) states that failure to make the payment violates the law  
35 and may result in collection proceedings.

36 Sec. 8. (a) Except as provided in subsection (b), a noncontracted  
37 provider or the noncontracted provider's agent shall disclose in  
38 writing to a covered individual the following applicable  
39 information:

40 (1) That the noncontracted provider has not entered into a  
41 agreement with the insurer under IC 27-8-11-3 to provide  
42 health care services to the covered individual.

43 (2) That the covered individual may be billed for health care  
44 services for which payment is not made by the insurer.

45 If the disclosure described in this subsection is included in a  
46 document containing consent for treatment, the disclosure must be  
47 displayed conspicuously.

(b) A disclosure is not required under this section if any of the following apply:

(1) The covered individual is unconscious, incoherent, or incompetent.

(2) The covered individual:

(A) arrives at a hospital required to provide emergency medical screening or care under 42 U.S.C. 1395dd; and

(B) seeks emergency medical screening or care.

(3) The noncontracted provider does not know and could not reasonably know that the covered individual is covered by an insurer with which the noncontracted provider has not entered into an agreement for the delivery of health care services.

(4) The noncontracted provider has been requested to render health care services to the covered individual after the covered individual has been admitted for inpatient or outpatient services and the noncontracted provider's services were not part of the original treatment plan.

**Sec. 9. This chapter does not prevent an insurer from voluntarily issuing a direct payment to a noncontracted provider.**

SECTION 4. IC 27-13-1-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 22.5. "Nonparticipating provider" means a provider that has not entered into a contract with a health maintenance organization to serve as a participating provider.**

SECTION 5. IC 27-13-36.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

#### **Chapter 36.3. Payment to a Nonparticipating Provider**

**Sec. 1. If an individual contract or a group contract provides coverage for a health care service that is rendered by a nonparticipating provider:**

(1) who renders the health care service on an emergency basis in a hospital or an ambulatory outpatient surgical center and submits a claim for the health care service on the appropriate health maintenance organization claim form; or

(2) who renders the health care service as:

(A) an anesthesiologist;

(B) a pathologist; or

(C) a radiologist;

in a hospital or an ambulatory outpatient surgical center that is a participating provider;

**the health maintenance organization shall make a benefit payment directly to the nonparticipating provider for the health care service and send written notice of the payment to the enrollee or the authorized representative of the enrollee.**

1       **Sec. 2. If a health maintenance organization makes a payment**  
 2       **to an enrollee for a health care service rendered by a**  
 3       **nonparticipating provider, the health maintenance organization**  
 4       **shall include with the payment instrument written notice to the**  
 5       **enrollee that includes the following:**

6           (1) A statement of the claims covered by the payment  
 7           instrument.

8           (2) The amount paid by the health maintenance organization  
 9           for each claim.

10          (3) Any amount of a claim that is the enrollee's responsibility.

11          (4) A statement in at least 14 point type that:

12           (A) instructs the enrollee to forward the payment to the  
 13           nonparticipating provider if the enrollee has not paid the  
 14           nonparticipating provider in full;

15           (B) specifies that paying the nonparticipating provider is  
 16           the enrollee's responsibility; and

17           (C) states that failure to make the payment violates the law  
 18           and may result in collection proceedings.

19       **Sec. 3. (a) Except as provided in subsection (b), a**  
 20       **nonparticipating provider or the nonparticipating provider's agent**  
 21       **shall disclose in writing to an enrollee the following applicable**  
 22       **information:**

23           (1) That the nonparticipating provider has not entered into an  
 24           agreement with the health maintenance organization to  
 25           provide health care services to the enrollee.

26           (2) That the enrollee may be billed for health care services for  
 27           which payment is not made by the health maintenance  
 28           organization.

29       **If the disclosure described in this subsection is included in a**  
 30       **document containing consent for treatment, the disclosure must be**  
 31       **displayed conspicuously.**

32       **(b) A disclosure is not required under this section if any of the**  
 33       **following apply:**

34           (1) The enrollee is unconscious, incoherent, or incompetent.

35           (2) The enrollee:

36           (A) arrives at a hospital required to provide emergency  
 37           medical screening or care under 42 U.S.C. 1395dd; and

38           (B) seeks emergency medical screening or care.

39           (3) The nonparticipating provider does not know and could  
 40           not reasonably know that the enrollee is covered by a health  
 41           maintenance organization with which the nonparticipating  
 42           provider has not entered into a contract for the delivery of  
 43           health care services.

44           (4) The nonparticipating provider has been requested to  
 45           render health care services to the enrollee after the enrollee  
 46           has been admitted for inpatient or outpatient services and the  
 47           nonparticipating provider's services were not part of the

1           **original treatment plan.**

2           **Sec. 4. This chapter does not prevent a health maintenance**  
3           **organization from voluntarily issuing a direct payment to a**  
4           **nonparticipating provider.".**

5           Renumber all SECTIONS consecutively.

(Reference is to ESB 218 as printed April 7, 2009.)

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Representative Brown T